

COUNTY HARBORS

The county's two harbors, Morro Bay and Port San Luis, have long played a major role in the economic evolution of San Luis Obispo County. From the old train that chugged onto Harford Pier at the turn of the last century to the familiar fishing fleet that called each harbor home for many years, the role of these two harbors has never been static. But now, the train is only a page in the county's history book and the fishing fleet, along with the seafood processing plants, has become the subject of the latest chapter in that history.

NARRATIVE

Administratively the two harbor facilities are completely separate. The Morro Bay Harbor Department is a component of the Morro Bay City Government and is controlled by the Morro Bay City Council. Port San Luis Harbor District is a general purpose local special district as authorized by state law and is governed by an elected Board of Commissioners. Although both harbors are jurisdictionally and administratively separate, they have long shared much in common in their relationship to the county and to each other. For this reason we have chosen to treat both facilities in the same report.

Both harbors appear to be well run and managed by dedicated and professional staff and management. They maintain close cooperation with each other and regularly confer on questions of common interest. Both also face some common problems.

Commercial fishing and seafood processing have been an economic mainstay at both harbors for many years. Boats docked and moored, loaded and offloaded regularly. Many fishermen made their living from the sea and called these harbors 'home port'. They also lived in the community and called it home. They raised families here and generations followed in the family business. But, that's all changing now. Fishing has become a highly regulated business – so much so that it has been largely regulated out of existence on the Central Coast. The economics of the fishing industry are such that many commercial boats are either gone, or very shortly will be gone.

The decline of commercial fishing has forced a change in the character of the harbors. It has removed what many tourists, and many locals, have come to appreciate as the “quaint” nature of

these “fishing villages.” It has also taken a toll on the level of economic activity and revenue for each harbor. This is not to say that the character and economic stability of Morro Bay and Port San Luis are, nor have they been for many years, entirely dependent on the commercial fishing fleets. Nevertheless, the fleets have been an important part of the character and lure of the ports.

Charter fishing boats catering to the public have also played a measurable role in attracting the tourist trade. These charter fishing boats are now forced to close during a large part of the year and their future is open to question.

When Avila Beach was virtually destroyed for removal of polluted soils, the “funky beach town” character the community had enjoyed for so many years was also removed. It is now necessary for Avila Beach to reinvent itself. Rebuilding the community and Avila's new character will surely have a major impact and play a major role in the future of Port San Luis.

Morro Bay Harbor Department:



What the future holds for Morro Bay and its harbor will be largely determined by market conditions and the natural evolution of the character of life on the Central Coast. Housing will continue to appreciate at an accelerated pace, especially water view properties, and the tourist industry will continue to grow, even without the fishing fleet's presence. As the nature of the area changes with the influx of retirees from major

metropolitan areas, Morro Bay will simply be swept up in the tidewater of this change. Although there is much that must be done to preserve and protect the estuary, and the future of the power plant is unclear, there is probably little that needs to be done, or even can be done, to change what is inevitable for the future of Morro Bay's harbor.

The Harbor as an Asset - During World War II the Navy created what is now known as the Embarcadero by placing fill below the bluffs at the edge of the bay. In 1947, under the State Tidelands Grant, the newly created land became the property of the city and was eventually

developed into what is today's Embarcadero. This entire area, including the boat slips, piers, and all the commercial property on the seaward side of the Embarcadero is now owned by the city and operated by the Harbor Department. The lease and rental revenue from some 50 commercial establishments, approximately one million dollars per year, is placed in a dedicated fund to be used for maintenance and operation of the harbor.

In addition to operation of the Embarcadero area and all harbor facilities, the Harbor Department also operates the Morro Bay Harbor Patrol. The Harbor Patrol provides search and rescue services and boater assistance in the harbor and out to the three-mile state water limit parallel to the city's coastline, and occasionally beyond. The Harbor Patrol provides approximately 300 boater assists plus 150 emergency responses each year. The Harbor Patrol's officers also enforce harbor regulations but are not sworn peace officers and do not exercise arrest powers. The US Coast Guard based in Morro Bay has enforcement authority for vessels under way and provides supplemental assistance to the Harbor Patrol when required.

Because Morro Bay's harbor has a stable flow of income from rents and leases along the Embarcadero and from boat slip rentals, loss of the fishing fleet does not result in a critical loss of revenue.



The Future – If Morro Bay Harbor faces any problem in the future, we feel it is most likely to be a question of how to re-invent itself as a burgeoning tourist destination. This is not an altogether unenviable problem to have. We feel that the future of the Morro Bay Harbor is secure, promising, and bright. As concerns the Morro Bay Harbor, this is a informational report only and no response is required.

Port San Luis Harbor District:

Port San Luis' future is closely tied to the future of Avila Beach – and Avila Beach is well on the path to becoming one of California's premier beach resorts. The redevelopment of Avila has created a tourist destination to rival the finest along California's 1100-mile coastline. It is

reasonable to expect the economic impact of Avila to become increasingly important to both San Luis Obispo County and the Port San Luis Harbor District in the immediate future. The Harbor District provides many of the functions (i.e. lifeguards and restrooms) and attractions which Avila businesses will use and rely on to attract patrons, yet does not share in the resulting revenue (e.g. bed taxes). While the entire cost for provision of the facilities and services in the District falls on the taxpayers who live in the District, the commercial enterprises who benefit directly from the facilities of the Harbor District do not share proportionately in the cost of providing the services and facilities which benefit them directly.

Although the physical Harbor District is confined to the San Luis Obispo Bay area, the Port San Luis Harbor District, for tax and election purposes, is formed from a vast area in the south county. Generally, the Harbor District tax area is the same as the two south county Supervisors' districts (3rd and 4th Supervisorial Districts). Revenue for operation of the District comes both from operations and from property taxes collected in the District, in approximately equal amounts from each source according to the 2005-06 budget. The District is governed by a board of Commissioners generally elected from the 3rd and 4th Supervisorial Districts, with overlap into other supervisorial districts in the City of San Luis Obispo.

The District owns the entire beach area from the Harford Pier to the end of the beach at Sunset Palisades, the major public parking facility in Avila, the Avila and Harford piers, the Avila Yacht Club, the camp ground and trailer park above the Avila Beach drive, 24 acres at Point San Luis including the former US Coast Guard lighthouse, the boat haul-out area and maintenance yard, and the water seaward to three miles from the beach totaling roughly 2,500 acres of water and 125 land acres.

The District's Harbor Patrol provides boater assistance, medical, limited law enforcement, and search and rescue services in the port waters and the adjacent ocean. The District also provides lifeguards at the beaches during summer months.

The camping spots above the harbor are currently undeveloped and are used mainly as storage areas. However, the District has applied to the Coastal Commission for permits to develop and use these spots for improved storage, open space, transient accommodation, administrative

offices, camping and RV overnighting. When fully developed, these sites will provide unsurpassed views of the coast from Avila to Point Sal and many miles seaward.

The lighthouse is now in the process of restoration and will be a significant tourist attraction when finished. Restoration is provided by the Lighthouse Keepers, a volunteer organization, which has been working on the project for the past ten years. In coordination with the District, the Keepers handle a large volume of paperwork required by various governmental agencies, including the Federal Government, concerning the restoration of the historic landmark. In addition to restoration of one of the rooms in the keeper's quarters, they also have accomplished a number of other tasks required for the restoration process. The District spends \$20,000 to \$30,000 annually on upkeep and maintenance of the grounds and facilities at the lighthouse. Once the lighthouse is open to tourism all revenue from lighthouse tours and other uses must be placed in a trust fund to be used exclusively for the benefit and maintenance of the lighthouse. All of the revenue generated from the lighthouse may only be used for lighthouse properties and is not available for general use by the District.

The District's plans call for a new pier to be built just inside the breakwater for landing visitors at the lighthouse who have been ferried from the Harford Pier. Additional access will be via a road across PG&E's Diablo Power Plant property in escorted vehicles. This road currently exists, but is only a rough 'jeep trail' and requires extensive improvement before regular use to transport visitors. At this time the District has approximately 1.25 million dollars either promised or currently available for improvement of the road and a tentative agreement with PG&E to allow access via the road. Approximately \$700,000 of that amount is in the form of a promised grant from PG&E. However, because the County Planning Commission placed additional restrictions on PG&E's application for additional buildings, this amount may now be in jeopardy (January 2006).

The District's operating revenue includes fees from operation of the public parking facility at Avila. This parking lot is located at the lowest point in Avila, which is below sea level, and is the point toward which all drainage in the newly built-up area now flows. Prior to the redevelopment of Avila this vacant property was not paved and water could percolate into the soil. Today, almost the entire area of Avila is paved. Herein lie three potential problems the

Grand Jury has identified.

First, there is a potential for flooding. Water which collects in the parking lot flows into a drainage ditch located between the parking lot and Avila Beach Drive. The water then flows from the ditch under Avila Beach Drive into San Luis Creek during periods of low tide. The outlet to the creek is controlled by a flapper valve, which will open when the tide is low. While tidal back-pressure on the valve at high tide prevents the valve from opening, it also prevents water in the drainage ditch from being expelled to the ocean.

Due to the extensive paving now in Avila it is possible that a combination of heavy rain, together with a high tide – which prevents the valve from opening – could force the drainage ditch to fill to the point of flooding in the parking lot and nearby structures. The damage resulting from this scenario could be extensive.

The communities' drainage into the ditch and outflow from the ditch under Avila Beach Drive is through a pipe controlled by the county's flood control district, which also controls and is responsible for the flapper valve. This leaves the Harbor District responsible for the portion of the Avila drainage system most likely to flood but unable to exercise control over the causes of the flooding.

The flood control district is part of the county's Public Works Department. The Harbor District has made attempts to deed the drainage ditch to the county's flood control district, since it is a major component in the overall Avila flood control system. The Harbor District has taken the position that, since the flood control district is responsible for flood control in Avila Beach, it should assume responsibility for the entire drainage and flood control system in Avila Beach.

The second problem results from the fact that water often stands in this ditch and creates a mosquito breeding ground and a potential health hazard.

Finally, since the ditch is open and unprotected, it also represents a potential safety problem.

As mentioned above, the Harbor District also owns and maintains the beach at Avila and

employs lifeguards during the summer months. The beach, including lifeguards, operations, and maintenance, constitutes a major expense for the District. According to District management the total cost of the beach area operations is approximately \$400,000, while revenue from the parking facility and other beach resources is only about \$100,000.

The Harford Pier is an old (1873) wooden structure, which has withstood many years of relentless challenges from the sea. It is a constant battle to maintain the pier in safe and serviceable condition. The District does this well, but at great expense.

METHOD

Members of the Grand Jury reviewed the annual reports of both harbors, toured the harbors and the lighthouse, interviewed the harbor masters of both harbors, and conducted interviews with harbor staff. We also examined various developments in Avila Beach as well as the parking facility operated by Port San Luis and the adjoining drainage ditch.

FINDINGS

Finding 1: While major economic benefits of the beach, pier, and other District facilities accrue to the complex of new, luxury resorts and hotels at Avila Beach, and to the county treasury through bed taxes, the excess cost of operations must be born by the residents of the District through their property taxes.

Finding 2: The drainage ditch at the parking lot represents a potential flooding hazard.

Finding 3: The drainage ditch presents a potential health hazard due to mosquito breeding.

Finding 4: A safety problem also results from the ditch being uncovered and unprotected.

Finding 5: PG&E's cooperation in development of the lighthouse project is commendable.

RECOMMENDATIONS

Recommendation 1: A portion of the bed tax collected from the hotels, motels, and resorts in Avila should be shared with the Harbor District for its operation and maintenance of the beaches and other facilities, which benefit these same enterprises. (Finding 1)

Recommendation 2: Whereas the county benefits economically from the development of Avila

and the future revenues generated thereby, and whereas the county has approved the plans and granted the permits for building and paving in Avila, and whereas the county's flood control district is responsible for flood control in Avila, and whereas the county must share in the potential burden and liability for any damage resulting from flooding of the drainage ditch in its flood control district, the county should therefore assume responsibility for designing, providing, and maintaining a solution to the potential overflow and flooding problems at the drainage ditch. (Finding 2)

Recommendation 3: The county should undertake regular mosquito abatement at the drainage ditch, or other appropriate measures, to prevent mosquito larvae from developing. (Finding 3)

Recommendation 4: The ditch should be fenced and access restricted for safety reasons. (Finding 4)

AUTHORITY

The authority for this inquiry is sanctioned by the following:

California Penal Code §925 states: “The grand jury shall investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county including those operations, accounts, and records of any special legislative district or other district in the county created pursuant to state law for which the officers of the county are serving in their ex officio capacity as officers of the districts. The investigations may be conducted on some selective basis each year, but the grand jury shall not duplicate any examination of financial statements which has been performed by or for the board of supervisors pursuant to Section 25250 of the Government Code; this provision shall not be construed to limit the power of the grand jury to investigate and report on the operations, accounts, and records of the officers, departments, or functions of the county. The grand jury may enter into a joint contract with the board of supervisors to employ the services of an expert as provided for in Section 926.”

California Penal Code §925(a) states: “The grand jury may at any time examine the books and records of any incorporated city or joint powers agency located in the county. In addition to any other investigatory powers granted by this chapter, the grand jury may investigate and report upon the operations, accounts, and records of the officers, departments, functions, and the

method or system of performing the duties of any such city or joint powers agency and make such recommendations as it may deem proper and fit. The grand jury may investigate and report upon the needs of all joint powers agencies in the county, including the abolition or creation of agencies and the equipment for, or the method or system of performing the duties of, the several agencies. It shall cause a copy of any such report to be transmitted to the governing body of any affected agency. As used in this section, "joint powers agency" means an agency described in Section 6506 of the Government Code whose jurisdiction encompasses all or part of a county."

California Penal Code §933.5 states: "A grand jury may at any time examine the books and records of any special-purpose assessing or taxing district located wholly or partly in the county or the local agency formation commission in the county, and, in addition to any other investigatory powers granted by this chapter, may investigate and report upon the method or system of performing the duties of such district or commission."

REQUIRED RESPONSES

- **The Port San Luis Harbor District, Due: April 25, 2006 (Findings 1, 2, 3 & 4, Recommendations 1, 2, 3 & 4)**
- **The San Luis Obispo County Public Works Department, Due: April 25, 2006 (Findings 2, 3 & 4, Recommendations 2, 3 & 4)**
- **The San Luis Obispo County Board of Supervisors, Due: May 30, 2006 (Findings 1, 2, 3 & 4 and Recommendations 1, 2, 3 & 4)**